

## The charging decision

The initial decision whether to file criminal charges in a case, and what those charges should be, is one of the most critical steps in the criminal justice process.

This decision-making process is guided by legal and ethical standards that require a reasonable belief that the charge or charges can be proven to a jury, unanimously, beyond a reasonable doubt, after considering reasonable defenses.\*

On behalf of the District Attorney, a Deputy or Chief Deputy District Attorney reviews every case presented by local law enforcement, which in Denver is usually detectives with the Denver Police Department. Detectives present their completed investigations for a legal review that results in one of several outcomes:

- The case may be accepted for the filing of a criminal charge or charges
- The case may be declined for filing and returned to the detective
- There may be a request for additional investigative work that is needed before a filing decision can be made.

Ultimately the filing decision will be made based upon the specific facts of each case, including the physical evidence, witness statements and expert opinions that could be presented to a jury. These facts are evaluated and weighed against the specific language of the criminal statutes to determine whether the facts support the proof of each element of the crime beyond a reasonable doubt.\*\*

If so, a formal criminal charge is filed. If a determination is made that the facts do not support a reasonable belief that the charge can be proven beyond a reasonable doubt, there is a legal and ethical duty to decline to file charges.

\*There are different levels of proof under the law, ranging from “reasonable suspicion” up to “proof beyond a reasonable doubt.” The law requires “probable cause” to make an arrest, which is a lower level of proof than the level needed to file a formal charge, which is “proof beyond a reasonable doubt.”

\*\*The elements of a crime are the acts and mental state which define a criminal offense. For example, a person’s intent may be an element that prosecutor’s must prove in some cases, such as assault and murder.